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Transmittal Number: 20945462
Date Processed: 01/09/2020

Notice of Service of Process

Primary Contact: Legal Department null
Berkshire Hathaway Homestate Insurance Company
1314 Douglas St
Ste 1300
Omaha, NE 68102-1944

Electronic copy provided to: Brian Kamp
Beck Lane
Erin Hartigan
Angie Riviera
Dean Tarmey

Entity:	Berkshire Hathaway Homestate Insurance Company Entity ID Number 3640930
Entity Served:	Berkshire Hathaway Homestate Insurance Company
Title of Action:	R&B Holdings, LLC vs. Berkshire Hathaway Homestate Insurance Company
Document(s) Type:	Summons/Complaint
Nature of Action:	Contract
Court/Agency:	Milwaukee County Circuit Court, WI
Case/Reference No:	2020CV000209
Jurisdiction Served:	Wisconsin
Date Served on CSC:	01/09/2020
Answer or Appearance Due:	45 Days
Originally Served On:	CSC
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STATE OF WISCONSIN**CIRCUIT COURT****MILWAUKEE**R&B Holdings, LLC vs. Berkshire Hathaway Homestate
Insurance Company**Electronic Filing
Notice**Case No. 2020CV000209
Class Code: Other-Contract**FILED**

01-08-2020

John Barrett

Clerk of Circuit Court

2020CV000209

Honorable William S.

Pocan-26

Branch 26

BERKSHIRE HATHAWAY HOMESTATE INSURANCE COMPANY
1314 DOUGLAS STREET, SUITE 1400
OMAHA NE 68102

Case number 2020CV000209 was electronically filed with/converted by the Milwaukee County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

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Pro Se opt-in code: 52297c

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Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 414-278-4120.

Milwaukee County Circuit Court
Date: January 8, 2020

PROCESS SERVER

1/9/20 9:20A

DATE / TIME

FILED
01-08-2020
John Barrett
Clerk of Circuit Court
2020CV000209
Honorable William S.
Pocan-26
Branch 26

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY
Branch ____

R&B HOLDINGS, LLC,
9205 West Center Street, Suite 211
Milwaukee, WI 53222

Plaintiff,

Case No.: _____
Case Classification: Other-Contracts
Case Code: 30303

v.

BERKSHIRE HATHAWAY HOMESTATE
INSURANCE COMPANY,
1314 Douglas Street, Suite 1400
Omaha, NE 68102

Defendants.

SUMMONS

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 45 days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is Clerk of Courts, Milwaukee County Courthouse, 901 North 9th Street, Milwaukee, Wisconsin and to Plaintiff's attorney, Murdock Law, S.C., whose address is 4425 North Port Washington

Road, Suite 107, Milwaukee, Wisconsin 53212. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

Dated January 8, 2020.

MURDOCK LAW, S.C.
Attorneys for R&B Holdings, LLC

Electronically signed by Anthony K. Murdock

Anthony K. Murdock
State Bar No. 1054531
Kathleen M. Bodenbach
State Bar No. 1117653

MURDOCK LAW, S.C.
4425 North Port Washington Road
Suite 107
Milwaukee, Wisconsin 53212
p 844-744-7529
f 414-930-4468
anthony@murdock-law.com
kate@murdock-law.com

FILED
01-08-2020
John Barrett
Clerk of Circuit Court
2020CV000209
Honorable William S.
Pocan-26
Branch 26

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY
Branch ____

R&B HOLDINGS, LLC,
9205 West Center Street, Suite 211
Milwaukee, WI 53222

Plaintiff,

Case No.: _____
Case Classification: Other-Contracts
Case Code: 30303

v.

BERKSHIRE HATHAWAY HOMESTATE
INSURANCE COMPANY,
1314 Douglas Street, Suite 1400
Omaha, NE 68102

Defendants.

COMPLAINT

Plaintiff R&B Holding, LLC is the owner of rental property. R&B's brings this action against Berkshire Hathaway Homestate Insurance Company for its failure to cover the damage to a rental property after the property was severely damaged by the vandalism of a disgruntled tenant who was being evicted.

PARTIES

1. Plaintiff R&B Holdings, LLC is a Wisconsin limited liability company whose principal place of business is located at 9205 West Center Street, Suite 211, Milwaukee, Wisconsin 53222.

2. Defendant Berkshire Hathaway Homestate Insurance Company is a Nebraska insurance company whose headquarters is located at 1314 Douglas Street, Suite

1400, Omaha, Nebraska 68102 and is licensed to conduct business in the State of Wisconsin. Berkshire Hathaway Homestate Insurance Company's Wisconsin registered agent is Corporation Service Company, 8040 Excelsior Drive, Suite 400, Madison, Wisconsin 53717.

JURISDICTION AND VENUE

3. Jurisdiction is proper under Wisconsin Statutes sections 801.05(1)(d), (3), (5), and 10(b).

4. Venue is proper in Milwaukee County, at a minimum, under Wisconsin Statutes section 801.50(2)(a), (b), and (c).

FACTUAL SUMMARY

5. R&B Holdings is the owner of the property located at 4442 North 38th Street, Milwaukee, Wisconsin 53209 (the "Property").

6. R&B Holdings is in the business of owning and managing rental properties.

7. Guardian Investment Real Estate ("Guardian") manages the Property for R&B Holdings.

8. Berkshire Hathaway Homestate Insurance Company ("Berkshire Hathaway") issued policy number 02PRM006872-05 to R&B Holdings (the "Policy").

9. On August 24, 2018, Guardian entered a residential lease for the Property with Natasha Burchette.

10. On December 21, 2018, Guardian commenced an eviction action against Ms. Burchette for her failure to pay rent.

11. Ms. Burchette failed to follow the payment arrangement in the stipulation and Guardian resumed small claims proceedings against her.

12. Ms. Burchette's eviction was entered on February 6, 2019, by the Milwaukee County court.

13. Guardian made numerous attempts to contact Ms. Burchette to coordinate her move out.

14. Ms. Burchette refused to return Guardian's phone calls or otherwise contact Guardian to coordinate her move out of the Property.

15. On February 7, 2019, Guardian personnel stopped by the Property to talk to Ms. Burchette about moving out. Ms. Burchette did not answer the door and her children informed Guardian personnel that she was unavailable. At that time, Guardian personnel observed that the unit was fully furnished, and that Ms. Burchette was making no effort to move out.

16. On February 8, 2019, Guardian turned over the eviction writ to the sheriff's department.

17. On February 11, 2019, Guardian again visited the Property to inquire when Ms. Burchette would be vacating the Property. Although Ms. Burchette's car was in the driveway, Ms. Burchette again refused to answer the door. Guardian personnel looked in the Property's window and noted that the Property was still furnished.

18. The next afternoon, on February 12, 2019, Guardian personnel again visited hoping to talk to Ms. Burchette to coordinate her removal of the property. During this

visit, Guardian personnel heard the water running. Guardian personnel then entered the Property.

19. Upon entering the home, Guardian personnel saw that a pipe had burst, and water was pouring everywhere. The pipe had burst due to cold temperatures. Guardian personnel saw that the thermostat had been intentionally turned off.

20. Guardian personnel discovered that Ms. Burchette had vacated the property after business hours and Burchette had not provided any notice to Guardian that she would vacate the property.

21. The water from the pipe break caused significant damage to the Property.

22. R&B Holdings then contacted its insurer and filed a claim for the damage.

23. Berkshire Hathaway denied coverage on March 21, 2019.

24. R&B Holdings advised Berkshire Hathaway the damage was caused by vandalism, which is covered under the Policy.

25. On May 17, 2019, Berkshire Hathaway advised that it was not reconsidering its coverage denial.

26. Berkshire Hathaway again denied R&B Holdings coverage explaining that the claim was not within the scope of the Policy.

27. In September 2019, R&B Holdings filed a lawsuit, captioned *R&B Holdings, LLC v. Burchette*, Milwaukee County Case No. 19-CV-7265 (the "Burchette Suit").

28. The Burchette Suit, filed against Ms. Burchette, sought damages caused by her intentional damage to the Property.

29. Burchette failed to answer the lawsuit and on December 16, 2019, the Court entered findings of facts, conclusions of law, and an order for default judgment. A copy of the findings of fact, conclusions of law, and order of default judgment is **Exhibit A**.

30. In the Burchette Suit, the court specifically found that Ms. Burchette intentionally turned off the heat in the Property despite extremely cold weather and vacated the Property without informing Guardian that she was moving out. (Ex. A, ¶ 11-12.)

31. In the Burchette Suit, the court found that Ms. Burchette was substantially aware that turning off the heat during winter was substantially certain to cause damage to the Property. (Ex. A, ¶ 11-13.)

32. In the Burchette Suit, the court found that Ms. Burchette intentionally damaged the Property in retaliation of her eviction. (Ex. A, ¶¶ 13-15.)

COUNT I

Breach of Contract

33. Plaintiff R&B Holdings, LLC, incorporates all other paragraphs of this Complaint as if fully stated herein.

34. The Policy is a contract between the parties.

35. The Policy was in effect from May 17, 2018, through May 17, 2019.

36. The Property is an insured location on the Policy.

37. The Policy provides coverage for the damages caused by the following events:

A. Covered Causes of Loss

When Basic is shown in the Declarations, Covered Cause of Loss means the following:

Fire . . .

1. Lightning . . .
2. Explosion . . .
3. Windstorm or Hail . . .
4. Smoke . . .
5. Aircraft or Vehicles . . .
6. Riot or Civil Commotion . . .
7. Vandalism . . .
8. Sprinkler Leakage . . .
9. Sinkhole Collapse . . .
10. Volcanic Action . . .

38. The policy does not define the term “vandalism.”

39. The common and ordinary meaning of “vandalism” is “the willful injury or destruction of property from ill will toward its owner or from mere wantonness.”

40. Ms. Burchette’s lease expressly required her “to maintain a reasonable level of heat to ensure the habitability of the Premises and prevent damage to the Premises and the building in which they are located.”

41. In the Burchette Suit, the court found that Ms. Burchette turned off the heat and did so in retaliation for being evicted from the Property. (Ex. A, ¶ 13.)

42. In the Burchette Suit, the court entered a factual finding that Ms. Burchette was substantially aware that turning off the heat during winter was substantially certain to cause damage to the Property. (Ex. A, ¶ 11-13.)

43. Ms. Burchette’s actions fall within the well-accepted, and common and ordinary definition of vandalism.

44. The Policy obligated Berkshire Hathaway to provide R&B Holdings coverage for any vandalism that occurred at the Property.

45. Berkshire Hathaway breached its obligations contained in its contract with R&B Holdings by denying coverage for the damage at the Property.

46. R&B Holdings is therefore entitled to damages in an amount to be determined at trial.

WHEREFORE, R&B Holdings requests an order for judgment against Berkshire Hathaway Homestate Insurance Company as follows:

- a. For contractual damages in the amount to be shown at trial;
- b. For statutory costs and interest; and
- c. For all other relief, the Court deems equitable and proper.

JURY DEMAND

Plaintiffs demand a trial by a jury of twelve (12).

Dated January 8, 2020.

MURDOCK LAW, S.C.
Attorneys for R&B Holdings, LLC

Electronically signed by Anthony K. Murdock

Anthony K. Murdock
State Bar No. 1054531
Kathleen M. Bodenbach
State Bar No. 1117653

MURDOCK LAW, S.C.
4425 North Port Washington Road
Suite 107
Milwaukee, Wisconsin 53212
p 844-744-7529
f 414-930-4468
anthony@murdock-law.com
kate@murdock-law.com

EXHIBIT A

FILED
12-16-2019
John Barrett
Clerk of Circuit Court
2019CV007265

DATE SIGNED: December 16, 2019

Electronically signed by Honorable Christopher R. Foley
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT
Branch 14

MILWAUKEE COUNTY

R&B HOLDINGS, LLC,

Plaintiff,

Case No.: 19-CV-7265

v.

NATASHA BURCHETTE

Defendant.

**FINDING OF FACT, CONCLUSIONS OF LAW,
AND ORDER FOR DEFAULT JUDGMENT**

This matter came before the Court on a motion for default judgment filed by Plaintiff R&B Holdings, LLC, pursuant to Wis. Stat. § 806.02. Now fully advised and having considered the motion and the entire court file:

THE COURT HEREBY FINDS AND ORDERS:

1. Plaintiff R&B Holdings, LLC filed a Summons and Complaint against Defendant Natasha Burchette on September 20, 2019, alleging that Natasha Burchette intentionally caused damage to the premises located at 4442 North 38th Street, Milwaukee, Wisconsin 53209 that she was evicted from and is owned by R&B Holdings.

2. Defendant Natasha Burchette was served as is required by Wis. Stat. ch. 801, by substitute service by leaving a copy of the Summons, Complaint, Electronic Filing Notice, and Requests for Admission, with her sister, Camile Burchette, on October 15, 2019.

3. This Court has personal jurisdiction over Defendant Natasha Burchette.

4. Pursuant to Wis. Stat. § 801.09(2)(a)(3)b., the 45-day period for Natasha Burchette to answer or otherwise respond with a written answer expired on November 29, 2019.

5. Pursuant to Wis. Stat. § 804.11(1)(b), the 45-day period for Ms. Burchette to respond to R&B Holdings, LLC's requests for admission expired on November 29, 2019.

6. Defendant Natasha Burchette has never appeared in this action, filed an answer, or otherwise responded to the Complaint or requests for admission.

7. No issue of law or fact has been joined and the time for joining issues has expired; therefore, Plaintiff R&B Holdings is entitled to default judgment against Defendant Natasha Burchette pursuant to Wis. Stat. § 806.02.

8. All facts necessary for the Court to render judgment have been received.

9. Ms. Burchette's eviction was entered on February 6, 2019.

10. R&B Holdings' property manager Guardian Investment arrived at the property in mid-February 2019 to check on the status of Ms. Burchette's move out and heard water running.

11. Guardian Investment entered the premises to find that the water pipes had burst and the heat was intentionally shut off.

12. Ms. Burchette and her family had vacated the property after business hours and made no effort to advise Guardian Investment that she had moved out of the Property.

13. In retaliation for her eviction and with intent to cause damage to the Property, Ms. Burchette intentionally turned off the heat in the home located at 4442 North 38th Street, Milwaukee, Wisconsin 53209, and vacated the premises without notice to Guardian Investment or R&B Holdings, LLC.

14. Plaintiff R&B Holdings' motion for default judgment is granted.

15. Defendant Natasha Burchette intentionally caused damage to the premises located at 4442 North 38th Street, Milwaukee, Wisconsin 53209.

16. Plaintiff R&B Holdings has incurred \$128,566.24 in damages and \$760.95 in costs. Therefore Plaintiff R&B Holdings is entitled to a total judgment against Defendant Natasha Burchette in the amount of \$129,327.19.

17. The Clerk shall enter judgment consistent with this Order.

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document was served via U.S. Mail upon the person(s) listed below on December 6, 2019.

Ms. Natasha Burchette
5629 North 62nd Street, #2
Milwaukee, WI 53218

Electronically signed by Kathleen M. Bodenbach
Kathleen M. Bodenbach